

**Title 12**

**STREETS, ALLEYS, SIDEWALKS AND PUBLIC PLACES**

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**12.04 - Excavations**

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**12.04.010 Public grounds defined.**

As used in this chapter, the words “public grounds” shall mean the entire width of every public way, whether dedicated or acquired by usage, not heretofore or hereafter vacated by ordinance and shall include every highway, street, avenue, alley, park or public place now within the Town or subsequently annexed to it. (Prior Code §14-4-1)

**12.04.020 Permit required - Emergency.**

It is unlawful for any person, firm, corporation, partnership, public utility company, special district, organization or entity of any kind, other than a duly authorized city official or employee, to make or cause or permit to be made any excavation or opening in or under any public ground within the Town without first having obtained and having in force a permit therefor; provided, however, that in case of actual emergency it shall be lawful to make such excavation without a permit in order to repair utilities if a present danger to life or property exists. (Prior Code §14-4-2)

**12.04.030 Application.**

- A. An application for a permit required by this chapter to excavate shall be made upon forms provided by the Town therefore and shall recite specifically and illustrate by sketch or plan the exact location, depth, extent, nature and purpose of the excavation desired to be made; the purpose for which the privilege is requested; and the duration of time required for such work. The application shall be made at least five working days prior to the time set for beginning of the proposed work.
  
- B. It shall be the duty of every person or entity of any kind to furnish, on request of the Board of

Trustees, information regarding the location in any public grounds of the Town of any pipe or other structure installed, maintained or utilized by such person or entity. (Prior Code §14-4-3)

**12.04.040 Records.**

The Town Clerk shall keep a record of all applications made for permits under the provision of this chapter and of the permits so issued. (Prior Code §14-4-4)

**12.04.050 Conditions of permit.**

All permits issued under this chapter shall be according to the provisions of this chapter and subject to such rules, directions and limitations regarding the time to be required for work and the manner in which the work is to be performed as the official appointed by the Town may prescribe. (Prior Code §14-4-5)

**12.04.060 Fee.**

Applicants for a permit under this chapter shall pay the required and necessary fee to the Town before the issuance of such permit. The fees for such permit shall be set by the Board of Trustees of the Town and shall be posted for public inspection in the Town Hall. (Prior Code §14-4-6)

**12.04.070 Exhibition of permit.**

Each permit issued under this chapter shall be kept at the site of the excavation while the work is in progress and shall be exhibited upon request to any officer of the Town. (Prior Code §14-4-7)

**12.04.080 Obstruction of streets.**

It is unlawful for any person to stop up or obstruct more than the space of one block and one intersection at the same time in any one street or to keep the same blocked up for more than two days after the backfilling and repaving is finished or more than the length of time for which the permit is issued, whichever is the lesser. (Prior Code §14-4-8)

**12.04.090 Protection of public.**

It is unlawful for any person or entity to dig or cause to be dug any hole, drain, ditch or any other excavation in any public grounds within the Town without providing during the nighttime sufficient red or amber lights, to be placed with a suitable barricade or temporary fence around such hole, drain or ditch or other excavation in order to prevent persons, animals, and vehicles from sustaining injury. During the daytime, the barricade shall be maintained, but warning lights shall not be required. Every excavation shall further be protected at all times by traffic safety appliances as prescribed by and/or furnished by the Town Board in order to minimize the disruption of the flow of traffic in the vicinity of the excavation. (Prior Code §14-4-9)

**12.04.100 Tampering with warning devices.**

It is unlawful for any person or entity to damage, displace, remove or interfere with any barricade, warning light or any other safety appliance which is lawfully placed around or about any excavation or construction work in the Town. (Prior Code §14-4-10)

**12.04.110 Backfill - Restoration.**

A. Backfills of excavations shall be made in accordance with the instructions and directions of the official appointed by the Town to administer this chapter. Such directions and instructions shall be in conformance with accepted engineering standards and shall be specifically adapted to the particular conditions of travel, load requirements, terrain, subsoil, moisture and other conditions where the backfill is to be affected.

- B. All restoration of paving surfaces after an opening or excavation has been made shall be made in accordance with Town specifications and the entire work of restoration, including backfilling, repaving, surfacing and pouring shall be performed by permittee. Permittee shall remove all old surface material for an area extending at least one foot in all directions beyond the edge of the original cut, and replace it with new surfacing material at least equal in thickness to that of the adjacent surface and if any part of the surface is cracked or damaged in any way, the entire damaged area shall be replaced.
  
- C. Every person applying for an excavation permit and prior to issuance thereof, shall file a surety bond or a cashier's check in favor of the Town in the penal sum of eight hundred dollars and conditioned upon the faithful performance of such work in strict compliance with this chapter and other specifications, rules, regulations and ordinances of the Town or required by the official appointed by the Town to administer this chapter, and within the specified time limit; and that such person will indemnify and save harmless the Town against any and all damages or claims for damages, losses, costs, charges or expenses that may be brought against it by any person by reason of such work. The bond shall be discharged or the cashier's check returned to the applicant upon completion of the work, a review of the work by someone appointed by the Town Board, and a sworn statement by the applicant that he has done the work in strict compliance with this chapter and other specifications, rules, regulations and ordinances of the Town or requirements of the official appointed to administer this chapter.

(Prior Code § 14-4-11)

**12.04.120 Liability.**

In the event of settlement or subsidence of a particular excavation or part thereof, the permittee who had performed the excavation work shall be responsible for all repaving and repair costs occasioned thereby. (Prior Code §14-4-12)

**12.04.200 Violation - Penalty.**

Any person who violates any provision of any section of this chapter commits an offense. Any person convicted of violation of any section of this chapter shall be punished as provided in Kremmling Municipal Code Section 1.16.010. (Ord. 535 §42, 2008; Prior Code §14-4-13)

## 12.08 - Snow Removal

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### **12.08.010 Snow and ice to be removed from public sidewalks by private persons.**

Every person in charge or control of a building or lot of land within the Municipal boundaries and abutting a public sidewalk area, whether as owner, tenant, occupant, lessee, or otherwise, has a duty to keep public sidewalks reasonably clear of ice and snow and to remove the same with dispatch. (Ord. 473 §1, 2003)

The obligation to remove snow and ice from the adjoining or abutting a public sidewalk as imposed by this chapter shall not extend to the removal of snow and ice deposited upon a public sidewalk as a result of snow removal by the Town of Kremmling or CDOT. (Ord. 473 §1, 2003)

### **12.08.020 Depositing of snow and ice restricted.**

No person shall deposit or cause to be deposited any snow and ice from private property on or against a fire hydrant or on any public sidewalk, public sidewalk area, roadway, right-of-way, or other public property. (Ord. 473 §1, 2003)

### **12.08.030 Violation; work done, liability therefor costs.**

- A. The Town Manager, Chief of Police, Public Works Supervisor, or such other officer or employee as may be designated, may notify and require any person violating or causes another to violate these provisions to remove such snow or ice within twenty-four (24) hours after being notified to do so. (Ord. 473 §1, 2003)
- B. In the event of the failure of any person to clear away snow and ice from any public sidewalk areas as hereinabove provided, or cause this to be done, the Public Works Supervisor, may, as soon as practicable after such failure, cause such work to be done. (Ord. 473 §1, 2003)
- C. The Public Works Supervisor shall ascertain and keep a record of the exact cost of all work the supervisor causes to be done in accordance with this section on account of each act or omission of each person and the supervisor shall identify these persons with particularity. (Ord. 473 §1, 2003)
- D. The cost of work done in accordance with this section shall be charged against the land abutting the public sidewalk area where such work was done. The cost of work shall include labor, materials, capital and administrative overhead. The owner of the property shall be billed for the cost of work. If the bill is not paid within thirty days, the cost of work shall be a municipal lien and collected in such manner as allowed by law, or, in addition, such costs and penalty may be recovered by the Town in a suit at law against the owner or such other person whose act or omissions make it necessary for such work to be done. (Ord. 473 §1, 2003)

### **12.08.200 Violation - Penalty.**

Any person who violates any provision of any section of this chapter commits an offense. Any person convicted of violation of any section of this chapter shall be punished as provided in Kremmling Municipal Code Section 1.16.010. (Ord. 535 §43, 2008; Ord. 473 §1, 2003)

## 12.12 - Alleys

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### **12.12.001 Policy.**

The primary use and purpose of alleys is to provide utilities to properties and emergency access. Day-to-day vehicular movement is only incidental. It is the policy of the Town to provide only minimal maintenance of all alleys. The Town will not undertake graveling, surfacing, or resurfacing alleys beyond such minimal level. The Town will not remove snow from alleys, except as the Public Works Director, in consultation with the Town Manager, may determine. Such removal shall be only at such times and under such circumstances as may be determined, but shall not be done on any regular or scheduled basis. (Ord. 607 §1, 2011; Ord. 507 §1, 2006)

## 12.13 - License Agreements for Use of Town Property

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### **12.13.010 Definitions.**

As used in this chapter, the following words shall have the following meanings:

“License Agreement.” A written agreement granting a revocable, personal privilege to use a specified portion of the Town’s real property for a defined and limited non-public use.

“Licensee.” A person named as a licensee in license agreement.

“Non-public Use.” Any use of Town real property by physical encroachment or any non-public use by any person other than the Town, any quasi-municipal corporation, any political subdivision of the State of Colorado or the United States government or any agency or instrumentality thereof . “Non-public use” does not include use by the general public where Town real property is made available by the Town for use by the general public.

“Town Real Property.” Any real property interest owned by the Town including, but not limited to, Town rights-of-way. (Ord. 608 §1, 2011)

(Ord. 530 §1, 2008)

### **12.13.020 Use without permission prohibited.**

No person shall encroach upon or make any non-public use of any Town property unless such encroachment or non-public use is licensed under this chapter or by written license, easement, deed, or agreement made prior to January 1, 2008 or by any franchise issued by the Town. (Ord. 608 §2, 2011; Ord. 530 §4, 2008)

### **12.13.030 License required.**

A license agreement is required for any non-public use of Town real property, except as otherwise permitted by law or as expressly authorized by the Town by franchise, easement or other written agreement or permit. Encroachments and non-public uses shall be licensed hereunder or eliminated. (Ord. 608 §3, 2011; Ord. 530 §1, 2008)

### **12.13.035 Fee.**

A one-time license fee shall be set by the Board of Trustees per resolution. (Ord. 608 §4, 2011)

### **12.13.040 Submittal requirements.**

A person desiring to obtain a license agreement pursuant to this chapter shall submit to the Town an application in a form approved by the Town Manager. At a minimum, the submittal shall be required

to contain:

1. Proof of ownership of the property to be benefitted by the license.
2. Name and address of applicant or representative.
3. Location of encroachment by legal description and street address.
4. An explanation of the nature of the encroachment requested, including a statement of the need for and purpose for which the encroachment is requested.
5. Copy of most recent survey, with a minimum scale of one inch equals twenty feet.
6. Scaled site plan (minimum scale, one inch equals twenty feet) on 11 x 17 paper, showing the private and public property area of the encroachment, property boundaries of all properties adjoining the area of encroachment, existing structures, other improvements including sidewalks, fences, irrigation, drainage and landscaping features, in the area of the encroachment, and all existing utility lines and any utility easements in the entire right-of-way where the encroachment is requested.
7. Completed, signed license agreement. (Ord. 608 §5, 2011)
8. A one-time license fee. (Ord. 608 §6, 2011)

(Ord. 530 §1, 2008)

**12.13.050 Approval criteria.**

The approval of an application is solely at the Town's discretion. A license agreement may be approved by the Town only when:

1. The nature, scope, location and duration of the licensee's use or proposed use of the Town real property will not substantially interfere with the Town's need for complete control over its property; and
2. The approved use of Town real property pursuant to the requested license agreement will not result in the creation or continuation of a public or private nuisance or threat to the public health, safety or welfare.

Any request for the granting of a license agreement which fails to satisfy both of these criteria shall be denied by the Town. The following non-exclusive list of factors, as each presently exist and with due regard for the future, shall be considered in determining to grant or deny a license: Traffic Circulation, including emergency and utility access; Parking; Street Maintenance burdens; Utilities impact or interference; Law Enforcement; Expansion potential created for the benefitted structure or lot; Impact on adjoining and nearby properties; Income Producing space created; Legal Concerns; Benefit to the Town and Town's best interest; and Consistency with zoning, planning and Master Plans.

(Ord. 530 §1, 2008)

**12.13.060 Standards.**

The following standards shall apply to the approval of a license agreement by the Town pursuant to this chapter:

- A. A license agreement may only be issued to the owner of real property abutting Town real property.
- B. Any fence erected within own real property pursuant to a license agreement shall be placed no

closer than eighteen inches (18”) from any publically-owned sidewalk, and such fence must be placed on the sidewalk side adjoining the benefitted property. (See Kremmling Municipal Code section 17.11.200 for fence regulations.)

(Ord. 530 §1, 2008)

**12.13.070 Form and content of encroachment license agreement.**

License agreements entered into by the Town shall include provisions which provide: (Ord. 608 §7, 2011)

- A. The license agreement shall be fully revocable upon written notice to the licensee.
- B. The license agreement is fully transferrable to subsequent owners of the licensee’s property which abuts the Town real property so long as the subsequent owner assumes the obligations of the licensee under the license agreement in a form acceptable to the Town Attorney.
- C. The Town shall not be liable for the damage, destruction or loss of any property erected, installed, placed or maintained within Town real property pursuant to a license agreement.
- D. The licensee shall provide general liability insurance insuring against losses, damages or claims arising from the licensee’s use of the Town real property pursuant to a license agreement. Such insurance shall have limits of liability of not less than one million dollars (\$1,000,000) combined single limit. The Town shall be named as an additional insured under such insurance policy.
- E. The licensee shall be required to indemnify the Town from all losses, claims and damages arising from the licensee’s use of the Town’s real property pursuant to the license agreement.

(Ord. 608 §8, 2011; Ord. 530 §1, 2008)

**12.13.080 Licensee to reimburse Town.**

A licensee shall reimburse the Town for any actual and necessary costs incurred by the Town in having the Town Attorney review a license agreement approved pursuant to this chapter. Ord. 530 §1, 2008)

**12.13.090 No franchise created.**

Issuance of any license hereunder shall not create a franchise or other property right. (Ord. 530 §1, 2008)



## 12.16 - Parks

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**12.16.010 Reserving facilities.** Members of the public may reserve park facilities in accordance with Town regulations and requirements.

**12.16.020 Permit application.** Persons seeking to reserve park facilities shall complete an application.

**12.16.030 Permit conditions.**

- A. The Town may condition the issuance of any permit by imposing reasonable requirements concerning the time, place and manner in which the proposed activity shall be permitted, and may deny any application or impose any reasonable permit conditions or requirements upon the approval of the same in order to protect the safety or well-being of persons, or animals, or to protect or preserve the recreation area and related facilities, or any other Town or public property or facility, the use and enjoyment of the same by the general public, or the needs and objectives of the Town in maintaining and operating the same.
- B. All applicants must agree to indemnify and hold harmless the Town, its officials, officers and employees from any and all claims, costs and expenses, including attorneys' fees, and, where appropriate, may be required to obtain from participants a waiver of liability which waives any claims against the Town, its officials, officers and employees.
- C. Users serving alcohol must provide proof of general liability insurance with policy limits of at least one million dollars, in the form of a certificate of insurance, naming the Town as an also insured.
- D. The Applicant is responsible for clean-up after the event, and shall complete such clean-up within twelve hours after the close of the event unless a time extension is granted by the Town.
- E. The Applicant is responsible for any damage to any Town property caused or occurring as a result of the event for which the permit is issued. A damage deposit will be required for all permits, in an amount to be established by resolution of the Board of Trustees.
- F. Any permit issued is a revocable authorization for use of the park and/or facility described therein.

**12.16.040 Scheduling.**

- A. Reservations shall be on a first-come first served basis, except as follows. The Town reserves the Town Square and all facilities thereon for Kremmling Days.

B. Organized sports leagues or activities shall have first opportunity to reserve and to use Town facilities. However, no area shall be reserved exclusively for any one league or organization, and the times of reservation of each area shall be divided among the leagues or organizations applying to use them. Each area shall be open at some times during each week for use by persons not participating in any organization, and if no such persons request a reservation, then time shall be scheduled as open time and a notice shall be posted in a conspicuous place at or near the area, designating the times when the area will be open for use on a first come first served basis.

**12.16.050 Restrictions on all permits.** No permit will be issued which raises safety concerns that are not addressed by the Applicant, or substantially interferes with traffic, or with others' use of non-reserved park areas, or facilities.

**12.16.060 Fees.** Applicable fees shall be set by the Board of Trustees per resolution. Fees are non-refundable; however, if the event cannot be conducted due to weather or other conditions beyond the control of the Applicant, the fee may be applied toward a future reservation.

**12.16.070 Revocation of permit.** Permits may be revoked upon failure to comply with any condition of the Kremmling Municipal Code, any condition set forth in the permit, or any violation of law.

**12.16.080 Park Hours.** Parks and recreational facilities shall be closed to public use between the hours of 10:00 p.m. and 6:00 a.m.

(Ord. 611 §1, 2011)